

REMARKS

Forty-two claims were originally filed in the present Application. Claims 1-13, 17, 19, 21-33, 37, 39, 41, and 42 currently stand rejected. Claims 14-16, 18, 20, 34-36, 38, and 40 are objected to, but would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Accordingly, claims 1, 14, 18, 20, 21, 34, 38, and 40 are amended herein. Reconsideration of the Application in view of the foregoing amendments and the following remarks is respectfully requested.

35 U.S.C. § 102(b)

In paragraph 2 of the Office Action, the Examiner rejects claims 1, 2, 4, 21, 22, 24, 41, and 42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,184,659 to Darmawaskita. (hereafter Darmawaskita). The Applicants respectfully traverse these rejections for at least the following reasons.

“For a prior art reference to anticipate in terms of 35 U.S.C. §102, every element of the claimed invention must be *identically* shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 7 USPQ2d 1315, 1317 (CAFC 1988). The Applicants submit that Darmawaskita fails to identically teach every element of the claims, and therefore does not anticipate the present invention.

Regarding the Examiner’s rejection of independent claims 1 and 21, Applicants respond to the Examiner’s §102 rejection as if applied to amended independent claims 1 and 21 which now recite “*said charge pump generating said internal power supply at a pre-determined voltage level to supply operating power*

to said battery controller which responsively executes battery controller instructions to control operations of said battery pack,” which are limitations that are not taught or suggested either by the cited references, or by the Examiner’s citations thereto. Applicants submit that the foregoing amendments are supported by claims 14 and 34, as originally filed, and therefore do not necessitate a new search.

Darmawaskita generally teaches “charger logic and control for charging a plurality of batteries having different capacities, voltages, and/or chemistry types” (column 3, lines 42-44). However, Darmawaskita nowhere discloses or discusses utilizing a charge pump for “*generating said internal power supply . . . to supply operating power*” for a battery controller, as claimed by Applicants. In other words, Applicants’ recite various techniques for supplying operating power to a battery controller, while Darmawaskita is specifically directed towards charging various different types of batteries by utilizing “charging algorithms specifically tailored to each battery” (see Abstract). For at least the foregoing reasons, Applicants submit that claims 1 and 21 are not anticipated by Darmawaskita.

With regard to claim 42, “means-plus-function” language is utilized to recite elements and functionality similar to those recited in claims 1 and 21, as discussed above. Applicants therefore incorporate those remarks by reference with regard to claim 42. In addition, the Courts have frequently held that “means-plus-function” language, such as that of claim 42, should be construed in light of the Specification. More specifically, means-plus-function claim elements should be *construed to cover the corresponding structure, material or acts*

described in the specification, and equivalents thereof. Applicants respectfully submit that, in light of the substantial differences between the teachings of Darmawaskita and Applicants' invention as disclosed in the Specification, claim 42 is therefore not anticipated or made obvious by the teachings of Darmawaskita.

Regarding the Examiner's rejection of dependent claims 2, 4, 22, and 24, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested. Applicants therefore respectfully request reconsideration and allowance of dependent claims 2, 4, 22, and 24, so that these claims may issue in a timely manner.

Because a rejection under 35 U.S.C. §102 requires that each claimed limitation be *identically* taught by a cited reference, and because the Examiner fails to cite Darmawaskita to identically teach or suggest the claimed invention, Applicants respectfully request reconsideration and allowance of claims 1, 2, 4, 21, 22, 24, 41, and 42, so that these claims may issue in a timely manner.

35 U.S.C. § 103

In paragraph 5 of the Office Action, the Examiner rejects claims 3 and 23 under 35 U.S.C. § 103(a) as being unpatentable over Darmawaskita in view of U.S. Patent No. 5,164,761 to Isono et al. (hereafter Isono). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a) which requires that three basic criteria must be met, as set forth in M.P.E.P. §2142:

"First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations."

The initial burden is therefore on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 3 and 23, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 3 and 23 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 3 and 23 under 35 U.S.C. § 103.

On page 8 of the Office Action, the Examiner rejects claims 5 and 25 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 5,389,998 to Dunsmore et al. (hereafter Dunsmore). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 5 and 25, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 5 and 25 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 5 and 25 under 35 U.S.C. § 103.

In paragraph 6 of the Office Action, the Examiner rejects claims 6 and 26 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 5,985,480 to Sato et al. (hereafter Sato). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 6 and 26, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 6 and 26 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 6 and 26 under 35 U.S.C. § 103.

In paragraph 7 of the Office Action, the Examiner rejects claims 7, 8, 27, and 28 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 5,680,027 to Hiratsuka et al. (hereafter Hiratsuka). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 7, 8, 27, and 28, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 7, 8, 27, and 28 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 7, 8, 27, and 28 under 35 U.S.C. § 103.

In paragraph 8 of the Office Action, the Examiner rejects claims 9 and 29 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 6,335,611 to Sasaki (hereafter Sasaki). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 9 and 29, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 9 and 29 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 9 and 29 under 35 U.S.C. § 103.

In paragraph 9 of the Office Action, the Examiner rejects claims 10 and 30 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of Sasaki, and further in view of U.S. Patent No. 6,339,413 to Drake et al. (hereafter Drake). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 10 and 30, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 10 and 30 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 10 and 30 under 35 U.S.C. § 103.

In paragraph 10 of the Office Action, the Examiner rejects claims 11, 12, 31, and 32 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 6,340,889 to Sakurai (hereafter Sakurai). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 11, 12, 31, and 32, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 11, 12, 31, and 32 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 11, 12, 31, and 32 under 35 U.S.C. § 103.

In paragraph 11 of the Office Action, the Examiner rejects claims 13, 17, 33, and 37 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 5,557,188 to Piercey (hereafter Piercey). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 13, 17, 33, and 37, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 13, 17, 33, and 37 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 13, 17, 33, and 37 under 35 U.S.C. § 103.

In paragraph 12 of the Office Action, the Examiner rejects claims 19 and 39 under 35 U.S.C. § 103 as being unpatentable over Darmawaskita in view of U.S. Patent No. 6,098,095 to Nelson et al. (hereafter Nelson). The Applicants respectfully traverse these rejections for at least the following reasons.

Applicants maintain that the Examiner has failed to make a *prima facie* case of obviousness under 35 U.S.C. § 103(a). As discussed above, for a valid *prima facie* case of obviousness under 35 U.S.C. § 103(a), the prior art references when combined must teach or suggest all the claim limitations." The initial burden is on the Examiner to establish a *prima facie* case of obviousness under 35 U.S.C. § 103(a).

Regarding the Examiner's rejection of dependent claims 19 and 39, for at least the reasons that these claims are directly or indirectly dependent from respective independent claims whose limitations are not identically taught or suggested, the limitations of these dependent claims, when viewed through or in combination with the limitations of the respective independent claims, are also not identically taught or suggested.

For at least the foregoing reasons, the Applicants submit that claims 19 and 39 are not unpatentable under 35 U.S.C. § 103 over the cited references, and that the rejections under 35 U.S.C. § 103 are thus improper. The Applicants therefore respectfully request reconsideration and withdrawal of the rejections of claims 19 and 39 under 35 U.S.C. § 103.

Allowable Subject Matter

In paragraph 13, the Examiner indicates that claims 14-16, 18, 20, 34-36, 38, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants therefore amend claims 14, 18, 20, 34, 38, and 40 in independent form including all of the limitations of the base claim and any intervening claims, to thereby place claims 14, 18, 20, 34, 38, and 40 in condition for immediate allowance. Claims 15 and 16 depend from amended claim 14, and claims 35 and 36 depend from amended claim 34, and therefore are also in condition for immediate allowance.

Summary

Applicants submit that the foregoing amendments and remarks overcome the Examiner's rejections under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

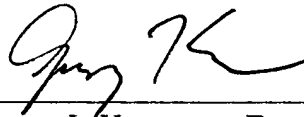
Because the cited references, or the Examiner's citations thereto, do not teach or suggest the claimed invention, and in light of the differences between the claimed invention and the cited prior art, Applicants therefore submit that the claimed invention is patentable over the cited art, and respectfully request the Examiner to allow claims 1-42, so that the present Application may issue in a timely manner. If there are any questions concerning this Response, the Examiner is invited to contact the Applicants' undersigned representative at the number provided below.

Respectfully submitted,

Date: _____

9/15/05

By: _____



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